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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,879	01/03/2001	L. Cade Havard	P04619US0	1966
22885 7590 07/31/2007 MCKEE, VOORHEES & SEASE, P.L.C. 801 GRAND AVENUE SUITE 3200 DES MOINES, IA 50309-2721			EXAMINER FRENEL, VANEL	
			ART UNIT 3627	PAPER NUMBER
			MAIL DATE 07/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/753,879

**Applicant(s)**

HAVARD, L. CADE

**Examiner**

Vanel Frenel

**Art Unit**

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 5/8/07.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 9-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### **Notice to Applicant**

1. This communication is in response to the Amendment filed on 5/8/07. Claims 2, 5-8 and 12-19 have been canceled. Claims 1 and 9 have been amended. Claims 1, 3-4, and 9-11 are pending.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-4, 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lockwood et al (5,845,254), Goodroe et al (2002/0123905), "For Health Benefits, Point and Click by Leonard Bill (HR Magazine 45, 7, 42, July 2000" in view of "Alternatives to traditional capitation in managed care agreements, Healthcare Financial Management, Westchester, April 1998 by Kevin M. Kennedy; Daniel J. Merlino.

(A) Claim 1 has been amended to recite the limitations of: "wherein the future healthcare savings are projected based upon historical charges and historical physician charges for the participant, health care network discounts for hospital charges, healthcare network discounts for physician charges, and a portion of the historical health care costs projected to fall to a healthcare provider in the network".

Lockwood, Goodroe and Leonard do not explicitly disclose "wherein the future healthcare savings are projected based upon historical charges and historical physician charges for the participant, health care network discounts for hospital charges, healthcare network discounts for physician charges, and a portion of the historical health care costs projected to fall to a healthcare provider in the network".

However, this feature is known in the art, as evidenced by Kevin. In particular, Kevin suggested that the method having "wherein the future healthcare savings are projected based upon historical charges and historical physician charges for the participant, health care network discounts for hospital charges, healthcare network discounts for physician charges, and a portion of the historical health care costs projected to fall to a healthcare provider in the network" (See Kevin, Page 3, Paragraphs 6-7; Page 4, Paragraphs 4-10).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Kevin within the collective teachings of Lockwood, Goodroe and Leonard with the motivation of providing capitation arrangements with quality and hospital utilization bonuses, under which specialists and primary care physicians receive a capitation payment plus the potential for bonuses based on quality and utilization criteria (See Kevin, Page 1, Abstract).

(B) Claim 9 has been amended to recite the limitations of: "hospital charges and physician charges for plan participants, network discounts for hospital charges and network discounts for physician charges".

Lockwood, Goodroe and Leonard do not explicitly disclose "hospital charges and physician charges for plan participants, network discounts for hospital charges and network discounts for physician charges".

However, this feature is known in the art, as evidenced by Kevin. In particular, Kevin suggested that the method having "hospital charges and physician charges for plan participants, network discounts for hospital charges and network discounts for physician charges" (See Kevin, Page 3, Paragraphs 6-7; Page 4, Paragraphs 4-10).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Kevin within the collective teachings of Lockwood, Goodroe and Leonard with the motivation of providing capitation arrangements with quality and hospital utilization bonuses, under which specialists and primary care physicians receive a capitation payment plus the potential for bonuses based on quality and utilization criteria (See Kevin, Page 1; Abstract).

(C) Claims 3-4 and 10-11 have not been amended, are therefore rejected for the same reasons given in the previous Office Action, and incorporated herein.

#### ***Response to Arguments***

4. Applicant's arguments filed on 5/8/07 with respect to claims 1, 3-4, 9-11 have been considered but are moot in view of the new ground(s) of rejection.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanel Frenel whose telephone number is 571-272-6769. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zeender, Ryan Florian can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

V.F  
V.F

Art Unit 3627

July 10, 2007

*Michael Cuff* 7/25/07  
MICHAEL CUFF  
PRIMARY EXAMINER